

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

AMANDA DESHEA WYNN,

Plaintiff,

v.

SUMMIT MEDICAL ASSOCIATES, P.C.;
and MICHAEL R. WOLFSON, M.D.,
individually, and as an agent and employee of
Summit Medical Associates, P.C.,

Defendants.

CIVIL ACTION FILE NUMBER:

2017CV298352

Jury Trial Demanded

**DEFENDANTS MICHAEL R. WOLFSON, MD AND SUMMIT MEDICAL
ASSOCIATES' STATEMENT OF MATERIAL FACTS TO WHICH THERE EXISTS
NO GENUINE ISSUE**

COME NOW, named Defendants **Summit Medical Associates, P.C. and Michael R. Wolfson, M.D.** (hereinafter "Defendants"), in the above-captioned action, and files this their Statement of Material Facts to Which There Exists No Genuine Issue, hereby showing this Honorable Court as follows:

1.

On November 25, 2015, Dr. Michael R. Wolfson performed a dilation and extraction abortion procedure on Plaintiff Amanda Wynn. (Plaintiff's Complaint ¶ 14).

2.

During the surgical procedure, Amanda Wynn's uterus was perforated. (Plaintiff's Complaint, ¶ 15).

3.

Amanda Wynn was transported by ambulance from Summit Medical Associates to Grady Memorial Hospital. (Plaintiff's Complaint ¶ 16).

4.

She had an emergency hysterectomy at Grady Memorial Hospital. (Plaintiff's Complaint ¶ 22).

5.

On or about November 27, 2017, Plaintiff filed a Complaint naming Summit Medical Associates, P.C. and Michael Wolfson, M.D. as Defendants and alleging Professional Negligence. (Plaintiff's Complaint ¶ 40).

6.

Pursuant to O.C.G.A. § 9-11-9.1, Plaintiffs filed contemporaneously with their Complaint an expert affidavit from Dr. C. David Adair alleging that Defendants' conduct fell below the professional standard of care. (Affidavit of C. David Adair, ¶ 4).

7.

In his expert affidavit, Dr. C. David Adair fails to state the professional standard of care for a dilation and evacuation surgical procedure. (Affidavit of C. David Adair, ¶ 5).

8.

The Court issued a Case Management Order, dated April 12, 2018, wherein a discovery deadline was set for March 8, 2019. (Case Management Order of Hon. Kelly Lee Ellerbe).

9.

In March 2019, the Court extended the Discovery period to August 1, 2019, and issued a revised Case Management Order. (Amended Case Management Order of Hon. Kelly Lee Ellerbe ¶ 6A).

10.

The Court's Case Management Order requires all parties to identify experts expected to testify at trial 30 days prior to the end of discovery. (Amended Case Management Order of Hon. Kelly Lee Ellerbe ¶ 6B).

11.

The deadline for all parties to identify experts expected to testify at trial expired on July 1, 2019 and Plaintiffs failed to disclose experts. (Amended Case Management Order of Hon. Kelly Lee Ellerbe ¶ 6B).

12.

The Court's Case Management Order expressly permits sanction for the failure to meet the expert disclosure deadline, including exclusion of the undisclosed witness' testimony, the striking of pleadings or other sanctions. (Amended Case Management Order of Hon. Kelly Lee Ellerbe ¶ 6G).

13.

On March 5, 2019, Defendants propounded Requests for Admissions of Fact on Plaintiff. (Defendants' First Request for Admissions to Plaintiff).

14.

Pursuant to O.C.G.A. § 9-11-36 (a)(2), Plaintiff had 30 days to respond to Defendants' Requests but failed to do so.

15.

Where a party is served with a request for admission of fact, and that party fails to respond with a written answer or objection within 30 days of service of the request, that matter is deemed admitted. (O.C.G.A. § 9-11-36(a)(2)).

Defendants state that there is no genuine issue of material fact existing regarding Plaintiff's claims of alleged Negligence and alleged Professional Negligence against Defendants. As Plaintiff has no expert testimony supporting the essential elements of her claim, and as the claims have been negated by admissions, Defendants are entitled to judgment as a matter of law on these claims.

Respectfully submitted this 26th day of July 2019.

HALL BOOTH SMITH, P.C.

/s/ J. Lewis Glenn, Jr.

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CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel of record with a copy of the within and foregoing **DEFENDANTS MICHAEL R. WOLFSON, MD AND SUMMIT MEDICAL ASSOCIATES' STATEMENT OF MATERIAL FACTS TO WHICH THERE EXISTS NO GENUINE ISSUE** upon counsel for all parties by electronically filing the same with the Clerk of Court through Odyssey eFile GA, which will automatically send an e-mail notification of such filing to the following attorneys of record and U.S. Mail for party(ies) not listed on Odyssey as follows:

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This 26th day of July 2019.

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